

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested. Applicant respectfully requests the finality of the previous office action be withdrawn as clearly being premature. The examiner's statement that "Applicant's (previous) arguments....have been considered but are moot in view of the new ground(s) of rejection" does not give grounds to make the rejection dated March 24, 2005 final.

The office action mailed March 24, 2005 clearly raises new rejections of record for the first time that were not necessitated by applicant's previous amendment response of October 22, 2004. Thus, the rejection is not a proper final rejection.

For example, the examiner has made a new sec. 112 rejection of independent claims 1, 11 and 20 as being "indefinite" by reciting language that WAS CLEARLY NOT PREVIOUSLY AMENDED in the amendment response of October 22, 2004.

Specifically the phrases cited by the examiner being "repeating stepsfor echo cancellation signals", and "monitoring the recorder/answering machine for echo cancellation signals..." and "continuing to play the recorded message if there are no echo cancellation signals" was NOT previously cited by the examiner in their office action response of July 9, 2004 as being indefinite.

Since these phrases in the claims are being rejected for the FIRST TIME, Applicant did not receive proper notice that this exact claimed language is indefinite. Thus, it is unfair and unreasonable and inequitable to not allow the applicant an opportunity to respond to this rejection that was NOT previously raised by the examiner.

In addition, the examiner for the first time raised a rejection of the subject claims as being rejected under obviousness type double patenting over the Applicant's previous patent 6,324,262 by stating the subject claims "in view of the sec. 112 rejection above....(are) merely monitoring for echo cancellation...." Clearly, again, the sec. 112 rejection refers to language in the claims that was NOT PREVIOUSLY AMENDED.

Additionally, this patent cited by the examiner has already been previously made of record by the applicant. Again, this rejection by applicant's own patent was NOT necessitated by any amendment by the applicant. Thus, it is premature for the examiner to make a final rejection based on this citing this reference as well.


In view of the above remarks, applicant respectfully requests the Examiner withdraw the final rejection as being premature and issue a NONFINAL rejection to the applicant under MPEP 706.07(c) and MPEP 706.07(d). A NonFinal rejection will allow Applicant to have a reasonable opportunity to address the NEW REJECTIONS that were not necessitated by Applicant's previous amendments to the claims.

If the request for reconsideration is not granted, applicant respectfully requests both the Examiner and his supervisor be available for a telephone conference call, and to please contact the undersigned below to arrange such a call.

Date

4/1/05

Respectfully Submitted,


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